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SUBJECT: NEPAL: THIRD ANNUAL ANTI-TRAFFICKING IN PERSONS  
(TIP) REPORT

REF: SECSTATE 22225

1. (U) Following is Post's submission for the third annual Trafficking in Persons (TIP) Report. Embassy point of contact for the report is Political/Economic Officer Sarah Welborne (tel: 977-1-411-179, fax: 977-1-410-723, e-mail: welbornese@state.gov).

2. (SBU) OVERVIEW

-- A. Nepal is a country of origin for international trafficking of women and children. Some trafficking also occurs within the country. The majority of those trafficked are poor, undereducated young women, though trafficking in boys also has been reported. Girls as young as nine years old have been trafficked.

The magnitude of the problem remains difficult to measure, as reliable data are not available. The most widely quoted NGO statistics state that 5,000 to 7,000 girls are trafficked to India for prostitution each year, but these figures are extrapolated, based on a number of assumptions, and do not take into account any victims who are trafficked for purposes other than prostitution. The GON does not keep official statistics on the number of victims trafficked.

An ILO-IPEC Rapid Assessment Survey (2002) on Trafficking in Girls with Special Emphasis on Prostitution estimated that 12,000 girls are trafficked every year. The study targeted populations including "at-risk" girls, girls who had been trafficked within Nepal, and those who had returned from India. Though trafficking is prevalent in many castes and ethnic groups, the ILO assessment concluded that those most at risk are members of lower castes and ethnic groups traditionally resident in Nepal's hilly regions.

Discrimination based on caste and ethnicity, though illegal in Nepal, is imbedded in economic and social structures. Gender-based discrimination is widespread, deeply rooted in tradition and sometimes supported by law. Women and girls from lower castes or "hill" ethnic groups therefore can be subject to double or triple marginalization, increasing their vulnerability to exploitative practices such as trafficking.

Additionally, an ongoing Maoist insurgency has disrupted government control in some of the country's remote areas. Economic insecurity, political instability and physical danger as a result of the armed conflict have displaced thousands of women and children from the poorest sectors of society. Threats of abduction by the Maoists have compelled large numbers of children to leave their homes to avoid forced conscription. Death of one or both parents has lowered an already poor standard of living for many children, forcing them to work outside the home or fend for themselves on the street. NGOs report that trafficking is on the rise in these vulnerable populations.

-- B. The Ministry of Women, Children and Social Welfare (MWCSW) has identified 26 high-priority districts for anti-trafficking interventions, most of which are in Nepal's hilly, undeveloped regions. Most trafficking victims originate in these high-priority districts. Women and children who have migrated to Kathmandu and other urban areas to find work also reportedly have been trafficked.

Nepali trafficking victims are most often taken overland to India for work in that country's sex industry and for bonded labor. Some victims are also trafficked to Hong Kong, Saudi Arabia and other countries in the Middle East.

-- C. No significant changes in the direction or extent of trafficking have been reported in the last year.

-- D. Nepal's Institute for Integrated Development Studies (IIDS) conducted a study entitled "Status and Dimension of Trafficking Within Nepal" with UNIFEM support under the South Asian Regional Initiative for Gender Equity (SARI/Equity) program in 2002. Supported by The Asia

Foundation, the Center for Legal Research and Resource Development (CeLLRD) completed a baseline survey in five districts.

Also in 2002, ILO/IPEC published reports on Trafficking in Girls with Special Reference to Prostitution, Trafficking and Sexual Abuse Among Street Children in Kathmandu, Cross Border Trafficking of Boys and Internal Trafficking Among Children Engaged in Prostitution.

-- E. Not applicable. Nepal is not a destination country for trafficking in persons.

-- F. Government officials, police and NGOs suspect that organized criminal groups and "marriage brokers" are the main traffickers in Nepal. Though most are Nepali, they have links with brothels in Mumbai and other cities in India. The traffickers typically target high-vulnerability groups like those listed in para A. NGOs have found that once prevention programs are instituted in a district, traffickers move on to other locations.

In general, the main factors contributing to trafficking in women and girls from Nepal are poverty, lack of alternative employment opportunities in the countryside, illiteracy, ignorance about the dangers of prostitution, family disharmony, domestic violence and gender discrimination. Contributing factors to the smaller phenomenon of trafficking of boys for exploitative labor include poverty and lack of alternative employment opportunities, as well as a traditional pattern of male migration for employment.

NGOs estimate that approximately half of victims are lured to India with the promise of a good marriage and/or job, but many others are sold by family members. A small number are kidnapped. No firm numbers are available.

Nepal and India have an open border. Traffickers typically move their victims overland on secondary roads or via public transportation.

-- G. Political will to combat trafficking exists at the highest levels of government, and the GON is making a good-faith effort to seriously address the problem. The MWCSW has instituted a National Task Force Against Trafficking to coordinate government response, and is working with the ILO, UNDP and other international organizations to increase GON capacity to prevent trafficking and prosecute offenders. Directly and through district-level task forces, the Ministry coordinates with NGOs to rehabilitate and assist victims. There are programs in place to train police forces and the judiciary to deal effectively with trafficking cases.

The MWCSW has drafted strengthened anti-trafficking legislation to assist in the prosecution of offenders. The legislation has not yet passed.

The current Assistant Minister for Women, Children and Social Welfare, Ms. Anuradha Koirala, is an internationally recognized anti-trafficking activist and head of a well-known NGO in the field, Maiti Nepal. One of the highest-ranking police officers in the country, Dr. Govinda Prasad Thapa, has been vocal in support and active in development of national and regional anti-trafficking initiatives.

-- H. There is no documented evidence that government authorities or individual members of government facilitate trafficking, condone trafficking or are otherwise complicit in such activities. However, government authorities such as immigration officials, police and judges do engage in graft and corruption, and these practices no doubt play a role in some trafficking cases. There have been no reported instances of prosecution or conviction of government officials on trafficking-related charges.

-- I. One of the poorest countries in the world, Nepal lacks the resources to address many of the underlying causes of trafficking. Under-funded government welfare agencies are generally incapable of delivering effective outreach programs or assistance to trafficking victims. As a result, anti-trafficking efforts have been primarily the domain of NGOs and bilateral donors.

Institutional capacity to address the trafficking problem is weak. In particular, the police lack both training and resources, and the courts are overburdened and susceptible to corruption.

Political instability has also hampered GON anti-trafficking efforts. Several governments have come and gone in rapid succession, and since the dissolution of the last parliament in May 2002, no elections have been held. As a result, draft legislation to increase penalties for trafficking-related offenses has yet to be passed, and the "National Plan of Action" to combat trafficking has yet to be

implemented completely.

### 13. (SBU) PREVENTION

-- A. The Government of Nepal has acknowledged publicly that trafficking is a problem. Prime Ministers, political party leaders, parliamentarians and ministry officials have stated publicly that trafficking is a national problem. Former Prime Minister Sher Bahadur Deuba affirmed during his tenure that "the government has taken trafficking as a serious problem," and "a serious crime." Pledging to seek stronger laws to prosecute traffickers, Deuba also said the government must address the underlying causes.

-- B. The MWCSW has primary responsibility for the development and coordination of the GON's anti-trafficking efforts. In addition, the MWCSW has instituted a National Task Force Against Trafficking that includes personnel from the National Planning Commission, the Nepal Police and the Ministries of Labor and Transportation Management; Home; Foreign Affairs; Law, Justice and Parliamentary Affairs; Education and Sports; and Health. The ILO, UNICEF and two representative NGOs are also members.

Additionally, the Nepal Police have established local-level Women and Children Service Centers as part of their community policing efforts. The Centers operate with a combined mandate of law enforcement, counseling and public awareness.

-- C. The MWCSW, NGOs and UNIFEM have all implemented local, regional and national information campaigns about trafficking in persons. The GON has prepared radio programs, audio-visual presentations, booklets, pamphlets and signboards aimed at preventing trafficking among vulnerable groups. "Village Vigilance Committees" (VVCs) have been established as pilot projects in some districts, training local residents to recognize possible trafficking cases and rescue potential victims before they can be moved across the border. Though no statistics are available, the GON reports that the VVCs have been successful in stopping a number of attempts to traffic girls to India.

-- D. Under a new GON initiative, announced in January 2003, all workers traveling overseas will be required to attend an orientation session explaining worker rights, safety issues and relevant regulations. A labor office will be established at the airport to reinforce the message. The 12-point program also abolished a five-year-old rule prohibiting Nepali women from working in Gulf countries. The ban was imposed in 1998 after reports of hardship and abuse from returning women workers. Women's activists had voiced concerns that while the law did not prevent Nepali women from clandestinely departing from India for work in the Gulf, it restricted women's access to information about their destinations and prevented them from attending orientation classes, putting them at risk of exploitation.

The MWCSW publishes a newsletter addressing issues of concern to women and children, and operates a program in 47 districts to emphasize to parents the importance of sending their children to school. Encouraging children to stay in school is also a large component of the government's campaign to eliminate child labor, currently being carried out under the auspices of a USDOL-funded Timebound Project.

Government-initiated income-generation projects have been introduced in more than 3900 villages, providing micro-credit loans, administering savings programs and encouraging banks to support women entrepreneurs in almost all districts of the country.

--E. The GON is unable to support financially most prevention programs, but is very receptive to private efforts. The government makes its personnel readily available to take part in anti-trafficking training programs, provides government facilities for outreach programs and training, and otherwise supports private initiatives to the best of its ability. The Ministry, with technical assistance from the Center for Population and Development Activities (CEDPA) and funding from USAID/W, has prepared a national Informal Education and Communication (IEC) strategy. The MWCSW provides additional funding in priority districts.

-- F. The MWCSW fosters a collaborative relationship with donors and NGOs in joint pursuit of anti-trafficking goals. For example, "Beyond Trafficking -- A Joint Initiative in the Millennium Against Trafficking of Girls and Women (JIT)" is a collaborative effort of the MWCSW, UN System Task Force Against Trafficking and other donors. In addition to cooperative work on the JIT and IEC, the Ministry has also worked collaboratively with CEDPA and the ILO to establish a Documentation and Information Center on Trafficking and developed software to manage information. An Office of the National Rapporteur has been set up with input from UNDP.

-- G. Nepal's open land border with India does not allow for stringent monitoring. One NGO has had some success at monitoring the border independently, and UNICEF has provided training for police and immigration officials to help them identify potential trafficking victims at border crossings.

-- H. See para B for information about GON anti-trafficking task force. The Commission for the Investigation of the Abuse of Authority investigates public corruption.

-- I. At a South Asian Association for Regional Cooperation (SAARC) Summit held in January, 2002, Nepal, together with India and other South Asian countries, signed the SAARC Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution. Together with other SAARC countries, Nepal has agreed to establish SAARCPOL, a regional body to fight trafficking and other transnational crimes. Nepal and India have agreed to form a Joint Cross Border Committee Against Trafficking.

Nepal is a party to the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), the UN Convention on the Rights of the Child, the ILO Minimum Age Convention, the ILO Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, the ILO Forced Labor Convention and the Convention on the Abolition of Slavery.

-- J. The GON's National Plan of Action to combat trafficking was developed in consultation with the ILO, NGOs and relevant government agencies. It has not yet been fully implemented.

-- K. The MWCSW's National Task Force Against Trafficking is responsible for developing anti-trafficking programs within the GON.

#### 14. (SBU) INVESTIGATION AND PROSECUTION OF TRAFFICKERS

-- A. No new anti-trafficking laws have been enacted, though draft legislation exists and is expected to be brought before a new session of Parliament, following as-yet unannounced national elections.

The Human Trafficking Control Act of 1986 is the current anti-trafficking legislation. It prohibits:

- Selling of a human being for any purpose;
- Taking any person to a foreign territory with an intention of selling that person to a third party;
- Involving any woman in prostitution by enticement, allurement, fraud, threat, coercion or any other means;
- Abetting, assisting, conspiring or attempting to carry out any of the above acts.

The 1986 Act is flawed in several ways. It does not criminalize the separation of a minor from his or her legal guardian with the intent of trafficking the minor, nor does it criminalize the receipt of a trafficked person. Under the terms of the Act, no crime occurs until the victim and perpetrator are outside Nepali jurisdiction. The Act makes no provision for the compensation or protection of trafficking victims. Victims are often reluctant to testify, because trials are held in open court and there is no legal protection for witnesses. Local police cannot investigate trafficking complaints without permission from prosecutors, and the resultant delay gives perpetrators time to flee.

-- B. The 1986 Act provides for jail terms of up to 20 years for traffickers, but penalties are often much less. Approximately 38% of traffickers receive minimum sentences when convicted.

-- C. Penalties for rape vary with the age of the victim. If the victim is under 16, jail sentences of up to ten years are possible. For victims 16 and over, sentences can be up to five years. In either case, the court may order a convicted rapist to give half of his property to the victim. NGOs state that victims are not detained, jailed or deported. If the victim is a foreigner, he or she will be handed over to the concerned Embassy.

-- D. During FY 2002, 92 cases of trafficking were reported to the police. 2002 prosecution statistics are not yet available. (Post will provide them septel prior to March publication of TIP report.)

-- E. Government officials, police and NGOs suspect that organized criminal groups and "marriage brokers" are the primary perpetrators of trafficking in Nepal. They note that parents and other relatives of trafficking victims are often complicit as well.

-- F. By its own admission, the government lacks the trained manpower necessary to investigate effectively cases of trafficking. While no legal restrictions prevent the police from conducting covert operations or electronic

surveillance, poor training, rudimentary equipment and procedural inertia prevent the techniques from being utilized.

-- G. As part of an anti-trafficking initiative begun in 1996, the Nepal Police have occasionally trained a limited number of personnel in the investigation of trafficking. However, most training programs of this type are developed and administered by NGOs. The GON supports programs to the best of its ability by providing facilities and making its personnel available to attend.

-- H. In October, 2000, Nepal's Home Ministry, the UN Development Fund for Women (UNIFEM) and NGOs hosted a regional workshop for senior police officers to enhance cross-border anti-trafficking collaboration. Several follow-up meetings involving Nepal and India have taken place.

-- I. Nepal and India, are currently discussing their bilateral extradition treaty, signed in 1955. The treaty is being updated to address transnational crimes more effectively. Nepali law does not prohibit the government from extraditing its own nationals, but the GON has not had occasion to do so in connection with trafficking.

-- J. Post has no evidence that, as a matter of policy, GON authorities facilitate, condone or are otherwise complicit in human trafficking. However, local anti-trafficking NGOs report that individual local officials and border police sometimes accept bribes in exchange for allowing the traffickers and their victims to cross Nepal's border with India. The Commission for the Investigation of the Abuse of Authority (CIAA) has the power to investigate incidences of corruption by public officials.

-- K. No GON officials have been prosecuted for involvement in trafficking or trafficking-related corruption.

-- L. Nepal ratified ILO Convention 29 on Forced Labor on January 3, 2002, and ratified ILO Convention 182 on September 13, 2001. Nepal has not yet ratified ILO Convention 105.

Nepal has not ratified the Sale of Children Protocol, which supplements the Rights of the Child Convention; or the Protocol to Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN Convention Against Transnational Organized Crime.

#### 15. (SBU) PROTECTION AND ASSISTANCE TO VICTIMS

-- A. Questions regarding residency status and relief from deportation do not appear to apply to Nepal, as Nepal is not a destination country for international trafficking in persons. For victims of internal trafficking, victim care facilities are limited, and are run primarily by NGOs.

-- B. The GON provides limited funding to local NGOs to provide assistance to victims of trafficking with rehabilitation, medical care and legal services. The GON does not fund foreign NGOs. Bilateral and multilateral donors, working with the GON through the MWCSW, do fund local and foreign NGOs to provide victim assistance.

-- C. The government of Nepal does protect the rights of victims. Trafficking victims are not detained, jailed, or deported, nor are they, as trafficking victims, prosecuted for violations of other laws.

-- D. While the GON has not actively encouraged trafficking victims to file civil suits or seek legal action against traffickers, once the victim does file a civil suit or make a criminal complaint, the GON will prosecute the case at no cost to the victim. The Nepal Police have initiated a "Women's Cell," aimed at assisting victims of trafficking and domestic violence.

-- E. There is no provision for the government to provide protection to victims or witnesses.

-- F. As part of the new foreign employment initiative announced in January 2003 (see Prevention, para D), the GON intends to open an Embassy in Kuala Lumpur and to appoint labor attaches to Malaysia and UAE, both of which have large concentrations of Nepali workers. The government has also initiated a request for Saudi Arabia and Malaysia to open consular sections in Kathmandu. A welfare fund will be established to assist workers injured on overseas jobs.

Government representatives at Consulates in India, the destination country for most of Nepal's trafficking victims, do not receive special training in protection. However, they assist with the repatriation of victims to Nepal if cases are brought to their attention.

-- G. In May 1999, the MWCSW opened the Women's Skill

Development Center, a rehabilitation and skills training center for women returned from being trafficked and for women at risk of being trafficked. Most "safe houses" and rehabilitation centers are run by NGOs.

-- H. There are more than 40 national-level NGOs working on the issues of trafficking. With the GON's endorsement, many NGOs conduct public information and outreach campaigns in rural areas. They also provide prevention education, micro-finance, rehabilitation, advocacy and legal assistance. Two representative NGOs are members of the MWCSW's National Task Force, and the GON works closely with NGOs to provide services to victims and assist in the implementation of the National Plan of Action.

16. (U) OMB Reporting Requirements: One FS-03 officer spent 14 hours drafting and clearing this year's TIP report. One FS-01 officer spent one hour, one FS-02 officer spent 15 minutes, and DCM spent 30 minutes clearing the report. One FSN-11 USAID employee spent five hours researching information.

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